

## **Exhibit 39**

Brett Dockwell  
(212) 735-8791  
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November 1, 2011

BY E-MAIL

William G. Wallace, Esq.  
Favata & Wallace LLP  
229 Seventh Street  
Garden City, New York 11530  
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Re: Orchard Hotel, LLC v. D.A.B. Group LLC, Index No. 850044/2011

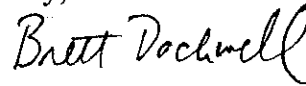
Bill:

On October 21, 2011, I sent you a draft confidentiality stipulation and order, modeled on the New York City Bar Association Model Form referenced in Justice Fried's individual practices. Although you and I had discussed the content of the stipulation and order before I sent it to you, you still have not executed the stipulation or otherwise responded.

As you and I have discussed, Orchard Hotel is ready to produce documents in response to D.A.B. Group's Notice for Discovery and Inspection dated August 18, 2011. However, Orchard Hotel will not produce any such documents unless and until a confidentiality order is entered governing the exchange and use of confidential information.

Please return an executed copy of the stipulation and order to me at your earliest convenience.

Sincerely,



Brett Dockwell

Brett Dockwell  
(212) 735-8791  
bdockwell@morrisoncohen.com

November 18, 2011

BY E-MAIL

William G. Wallace, Esq.  
Favata & Wallace LLP  
229 Seventh Street  
Garden City, New York 11530  
fwoffice@aol.com

Re: Orchard Hotel, LLC v. D.A.B. Group LLC, Index No. 850044/2011

Bill:

As you know, on October 21, 2011, I sent you a proposed stipulation and order to govern the exchange and use of confidential information produced during discovery. That proposed stipulation and order was modeled on the New York City Bar Association Model Form and reflected our prior agreement as to the designation of confidential material. Despite subsequent correspondence regarding the stipulation and order, you have yet to execute the document I sent or provide any other response.

This letter shall confirm that Orchard Hotel's responses to D.A.B. Group's disclosure requests are being held in abeyance until a stipulation and confidentiality order is entered. Please be advised that Orchard Hotel will not consent to any adjournments based on D.A.B. Group's inability to obtain disclosure, to the extent that D.A.B. Group is even entitled to such disclosure.

Sincerely,



Brett Dockwell

MorrisonCohen<sub>LLP</sub>

Brett Dockwell  
(212) 735-8791  
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January 5, 2012

BY E-MAIL

William G. Wallace, Esq.  
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229 Seventh Street  
Garden City, New York 11530  
fwooffice@aol.com

Re: Orchard Hotel, LLC v. D.A.B. Group LLC, Index No. 850044/2011

Bill:

In light of your continued refusal to sign a stipulation and order to govern the exchange and use of confidential information produced during discovery, Orchard Construction's responses to D.A.B. Group's disclosure requests are being held in abeyance. Please be advised that Orchard Construction will not consent to any adjournments based on D.A.B. Group's inability to obtain disclosure, to the extent that D.A.B. Group is even entitled to such disclosure.

Sincerely,



Brett Dockwell